Supreme Court, U.S.
FILED

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08-574 OCT 28 2008

No. OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez, Esq.,

Petitioner,

v.

Hon. Leroy Rountree Hassell, Sr., *et al.*,

Respondents.

On Petition For Writ of Certiorari
to the Supreme Court of the Commonwealth of
Virginia

PETITION FOR WRIT OF CERTIORARI

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The evidence is that the Supreme Court of Virginia, the Virginia State Bar Disciplinary Board ("VSBDB"), the Virginia Employment Commission ("VEC"), and Attorney General Bob McDonnell, *et al.*, aided and abetted a criminal conspiracy to retaliate against Isidoro Rodriguez, Esq. ("Rodriguez") for contacting Congress and the General Assembly to investigate the violation of separation of power and for litigating to enforce his Federal and Virginia statutory rights. The linchpin of the conspiracy was for the VSBDB to revoke Rodriguez's license to practice law for litigating to enforce said righs. But, the VSBDB has no judicial authority under the laws of Virginia to revoke an attorney's license. Thus, the VSBDB acted as a *kangaroo court*[1] in issuing a *void* order. Due to this evidence of a *void* order a suit was filed under Virginia Tort Claims Act and Virginia's Business Conspiracy Act for illegally depriving Rodriguez of his right to employment as an attorney and to federal unemployment compensation. But, in violation of the right of access to an impartial court and a jury trial the Fairfax County Cir. Ct. dismissed the action based on absolute Judicial and Executive Branch immunity for criminal and tortious acts. The Supreme Court of Virginia affirmed.

QUESTION PRESENTED FOR REVIEW

I. WHETHER THE SUPREME COURT OF

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[1] "*Kangaroo court.*" . . . 2. A . . . tribunal characterized by **unauthorized . . . procedures**, ... 3. **A sham legal proceeding**. . . ." Bryan A. Garner, Black's Law Dictionary, at page 382 (8th ed., 1999). Emphasis added.

VIRGINIA VIOLATED RODRIGUEZ RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAW BY AFFIRMING THAT THERE IS ABSOLUTE JUDICIAL AND EXECUTIVE BRANCH IMMUNITY FROM CRIMINAL AND TORT LIABILITY FOR ISSUING AND ENFORCING A *VOID* ORDER IN VIOLATION OF THE *VOID* ORDER DOCTRINE, THE FIFTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION, ARTICLE I § 1, 5 AND § 7 OF THE CONSTITUTION OF VIRGINIA, AND VA CODE § 54.1-§§ 3915 AND 3935?

Parties to the Proceedings

The caption of the case does not contain the name of all of the parties, who include: The Supreme Court of Virginia, The Office of the Attorney General of the Commonwealth of Virginia, the Virginia Employment Commission Hon. Barbara Milano Keenan, Hon. Lawrence L. Koontz, Jr., Hon. Cynthia D. Kinser, Hon. Donald W. Lemons, Hon. G. Steven Agee, Hon. Barbara Milano Keenan, Ms. Karen Ann Gould, Esq., Mr. Seth Guggenheim, Esq., Ms. Noel D. Sengel, Esq., Mr. James Leroy Banks, Jr., Esq., Mr. William Carlyle Boyce Jr., Esq., Mr. William Ethan Glover, Esq., Mr. Glenn M. Hodge, Esq., Mr. Stephen A. Wannall, Mr. Davis J. Gogal, Esq., Mr. Daniel M. Rathbun, Esq., Mr. Edward V. O'Connor, Jr, Esq., Mr. John W, di Zerega, The Honorable Bob McDonnell, Esq., The Hon. William E. Thro, Catherine Crooks Hill, Esq., Ms. K, Kupke, John Does 1-20, and John Doe Entities.

Rodriguez not a corporation.

Respondents are entities of the Federal, Commonwealth Virginia, and District of Columbia government, their employees, and private contractors as instrumentalities of government, and their private law firms acting as attorneys/lobbyists, and media companies located in Washington, D.C. and Virginia.

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Prakash and Smith, *How to Remove a Federal Judge*, 116 Yale L. J. 72 at 74 (2006) 24

Robert Craig Waters,"Liability of Judicial Officers under Section 1983" 79 *Yale L. J.* 326 (December 1969 .....)25

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Goodman, Leonard S., *The Historic Role of the Oath of Admission*, Temple Univ. 1967. 7

Suffolk Bar Assn Dinner, Feb 5, 1885, *Speeches* (1913), reprinted in Lerner, Max, *The Mind and Faith of Justice Holmes* 29 (1954). 7

The Fraternity: Lawyers and Judges in Collusion, by John Fitzgerald Molloy. St. Paul, Minn.: Paragon House 7, 13

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CITATIONS TO OPINIONS BELOW

The unpublished order of the Supreme Court of Virginia based on absolute judicial and executive branch immunity whose review is sought was issued on July 31, 2008 and is reproduced at A-1.[1]

The unpublished order of the Fairfax County Circuit Court issued on March 28, 2008, is reproduced at A-2.

The unpublished *void* judgment of the Supreme Court of Virginia issued on June 29, 2007, affirming the published *void* decision of the VSBDB issued on November 27, 2006, is reproduced at A-3 and A-4.

STATEMENT OF JURISDICTION

The unpublished order of the Virginia Supreme Court was entered on July 31, 2008. The jurisdiction of this Court is invoked pursuant 28 U.S.C. 1257(a), and the Court's supervisory authority under Article III to the U. S. Constitution, *See District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

THE ATTACHED ADDENDUM CONTAINS THE CONSTITUTION, FEDERAL STATUTES AND VIRGINIA CODE INVOLVED

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[1] "A-" references are to pages in the attach Appendix.

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[2]"Add-" references are to pages in the attach Addendum.

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STATEMENT OF THE CASE

a. Nature of the Case and Proceedings below

On December 20, 2007, the instant action was filed against Respondents ("Virginia Malfeasors"),[3] in the Fairfax County Circuit Court ("Circuit Ct.") pursuant to the Virginia Tort Claims Act Va. Code § 8.01- 195.3(3), (4), and (5) (Add-b and c), and the Virginia Business Conspiracy Act, Va. Code § 18.2-499 and 500 (Add-d and e).

Rodriguez demanded a trial by jury on all issues and the evidence of malfeasance and acts outside of jurisdiction and judicial pursuant to the Constitution of Virginia and the above cited provisions of Va. Code, based on the issuance and enforcement of the VSBDB *void* orders to damage Rodriguez's reputation, business, profession, right to employment, and to federal unemployment compensation benefits in retaliation for petitioning Congress and Virginia General Assembly, as well as litigating to enforce his Federal and Va. Code

[3] Parties to the Proceeding are listed at page ii.

statutory parental rights and his property rights in his perfected Virginia Attorney's Lien.

On March 28, 2008, the Circuit Court surreally summary dismissed the complaint based on holding of absolute Judicial and Executive Branch immunity for acts of malfeasance outside of jurisdiction and judicial capacity including criminal acts, and disregarded Rodriguez's right to a jury trial (A-2).

On July 31, 2008, the Supreme Court of Virginia issued a *void* order affirming the summary order of the Circuit Court (A-1).

b. Undisputed Facts in the Record.

The evidence confirms that from 2003 until 2007 an illegal enterprise was undertaken by the U. S. Departments of Justice and the State headquartered in Washington, D.C., and their independent contractor the National Center for Missing & Exploited Children, its employees, agents and lobbyist, and attorneys, as well as Judge Richard Roberts of U. S. District Court for the District of Columbia *et al.* ("Federal Malfeasors"), the Fairfax County J&D District Court, the Circuit Court, the Virginia Court of Appeals, and the Supreme Court of Virginia ("Va. Courts"), to obstruct the parental rights of Rodriguez a U.S. citizen by not complying with their ministerial and judicial responsibilities to secure visitations under the *Art 21* of the Hague Convention on the Civil Aspects of International Child Abduction, Oct 25, 1980, T.I.A.S. No. 11670, 19 I.L.M 1501 ("the Treaty"), and the Virginia's Uniform Child Custody Jurisdiction and

Enforcement Act, Va. Code 20-146.25, in violation of 18 U.S.C. § 1204, *See Isidoro Rodriguez, Esq. and Isidoro Rodriguez-Hazbun v. National Center for Missing and Exploited Children et al.*, D.C. Dist. of Columbia No. 03-0120 (Roberts, J.)("*Rodriguez I*").

Based on this evidence of malfeasance by the violation of 18 U.S.C. §§ 4 and 1204, Rodriguez filed: (1) a criminal complaint against the Federal Malfeasors and Va. Courts on December 13, 2004; (2) a First Amended Verified Complaint in *Rodriguez I* on March 7, 2005, to include claims for obstructing his parental rights in violation of 18 U.S.C. §§ 4 and 1204 pursuant to a civil cause of action under the Racketeer Influence and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1965(a) and (b); (3) a Virginia Tort Claim Notice against the Va. Courts on June 8, 2007; and, (4) petitions with both Congress and the General Assembly for an investigation of the on going violations of the Treaty and Va. UCCJEA.

In retaliation for the above petitioning the government and litigating to enforce his statutory rights, the Federal Malfeasors and Va. Courts compounded their criminal obstruction of Rodriguez's parental rights by entering into a business conspiracy to damage Rodriguez's reputation, business, profession, and right to employment in violation VA Code § 18.2-499 and 500 (Add-c), and 18 U.S.C. §§ 241, 242, and 1513.

To accomplish this, Mr. Eric Holder, Ms. D. Jean Veta, and Covington & Burling LLP, as well as Ms. Susan Brinkerhoff, and Proskauer Rose LLP, as the attorneys/lobbyists for the Federal Malfeasors filed in

October 2003, a Virginia State Bar Complaint based on Rodriguez litigating to enforce his statutory rights as a parent and attorney under the Treaty and Va. UCCJEA. Also, they did conspire to have Rodriguez's former client file a complaint for his litigating to enforce his perfected Virginia Attorneys Lien under Va. Code § 54.1-3932.

Subsequently, the VSBDB acted outside of its limited administrative authority in violation of Article VI § 1, § 5 and § 7, and Va. Code §§ 54.1-3910, 54.1-3915 and 54.1-3935 (Add-e and f), to issue a *void* order on November 27, 2006, disbarring and revoking Rodriguez's license to practice law for his litigating to enforce his rights as a parent (A-28), as well as for litigating to enforce his perfected statutory Virginia Attorney's Lien (A-26).

The evidence confirms that at the same time under the direction of the Federal Malfeasors the VSBDB conspired with the District of Columbia Court of Appeals Committee on Admissions ("Committee") to shelve for two years Rodriguez's waiver application and deny him of his right to a hearing in May 2007, so to deprive him of his right to employment as an attorney in the District of Columbia based on the VSBDB *void* order.

Based on this evidence of the past and on going criminal malfeasance by the Committee, the Federal and Virginia Malfeasors to issue and enforce the VSBDB *void* order in the District of Columbia so to damage Rodriguez's reputation, business, profession and right to employment as an attorney, Rodriguez

filed an action on May 27, 2007, under RICO for violation of 18 U.S.C. § 4, 241, 242, 1001, 1204, and1513, the Federal Tort Claims Act, the Virginia Tort Claims Act, and Virginia Business Conspiracy Act, *Isidoro Rodriguez, Esq. v. Editor in chief, Legal Times*, D.C. District Court No. 07-0975("*Rodriguez II*").

On June 18, 2007, in violation of his judicial duty under 18 U.S.C. § 4 and § 3771, District Court Judge Paul Feldman surreally issued a summary order dismissing *Rodriguez II* based on absolute judicial and executive branch immunity-even for negligent and criminal acts, and for lack of venue in the District of Columbia-even for the federal causes of action.

In violation of the mandate of separation of power under both the Constitution of Virginia and Va. Code, on June 29, 2007, the Supreme Court of Virginia issued a *void* order affirming the *void order* of the VSBDB (A-3), based on it delegating under Part 6, § IV, ¶ 13 (B)(5) of its Rules jurisdiction and judicial authority to VSBDB to act as a "court-of-record" with the power to revoke Rodriguez's license.[4]

Shortly thereafter, in *Rodriguez II*, an appeal was filed on July 3, 2007. Defendant Chief Justice John Roberts as Circuit Justice for the Fourth and District of Columbia Circuits specially designated a panel from the U.S. Ct. of Appeals for the 10th Circuit pursuant to 28 U.S.C. § 291(a), to consider the appeal

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[4]A Petition for Writ of Certiorari, *Isidoro Rodriguez v. Supreme Court of Virginia et al.*, S. Ct. No. 07-419, was denied on Nov. 2, 2007.

D.C. Ct. of Appeals No. 07-5234 ("Special Panel").

In November 2007, the Virginia Employment Commission denied Rodriguez of his right to federal unemployment compensation benefits based on the VSBDB *void* order.

On December 20, 2007, based on the orders of the Special Panel the instant action was filed in the Circuit Court. It dismissed the complaint in March 2008 based on absolute Judicial and Executive Branch immunity, and denied a trial by jury (A-2).

On July 2, 2008, the Special Panel affirmed the dismissal of *Rodriguez II* based on absolute judicial and executive branch immunity and lack of venue.[5]

On July 31, 2008, the Supreme Court of Virginia in violation of Rodriguez's rights under Va. Code § 8.01-195.3(3), (4), and (6), Va. Code §§ 18.2-481, 18.2-482, 18.2-499, and 18.2-500, and right to a jury trial on the issue of malfeasance, affirmed the order of Circuit Court based on absolute Judicial and Executive Branch immunity from tort and criminal liability for acts outside of capacity and jurisdiction, and the denial of jury trial (A-1).

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[5]Because of the Special Panel's lack of impartiality and apparent aiding and abetting, pending before the Court are a Petition for Writ of Mandamus to compel the protecting of Rodriguez as a victim of on going federal crimes, *In re Isidoro Rodriguez*, No. 08-339, and a Petition for a Writ of Certiorari, *Isidoro Rodriguez v. Ed. Chief Legal Times, et al.*, No . 08-411.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

There are four compelling reasons for granting the petition:

First, Va. Code § 8.01-195.3(3), (4), and (6), Va. Code §§ 18.2-481, 18.2-482, 18.2-499, and 18.2-500, provide for tort and criminal liability and accountability for malfeasance by issuing and enforcing of a *void* order outside of jurisdiction and judicial capacity in furtherance of a criminal conspiracy.

Second, to maintain an independent bar in the service of the public an attorney is an officer for life whose office cannot be taken from him, except for cause established by due process of law. Goodman, Leonard S., *The Historic Role of the Oath of Admission*, Temple Univ. 1967. In *Schware v. Board of Bar Examiners*, 353 U.S. 232, 239 (1957), this Court stated that, "[a] State cannot exclude a person from the practice of law . . . in a manner or for reasons that contravene the Due Process or Equal Protection Clause of the Fourteenth Amendment." Moreover, in the "Privileges and Immunities" context, the practice of law has been recognized as a "fundamental right," *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274 (1985). Thus, the Virginia Malfeasors cannot be immune from suit for the issuance and enforcement of a *void* order.[6]

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[6]Mr. Justice Holmes once remarked that the world has its fling at lawyer sometimes, but its very denial is an admission that of all secular professions this has the highest standards. Suffolk Bar Assn Dinner, Feb 5, 1885, *Speeches* (1913), reprinted in

Third, *Middlesex County Ethics Committee v. Garden State Bar Ass'n,* 457 U.S. 423 (1982), requires that a state proceedings afford an adequate opportunity to raise the federal statutory and constitutional claims based on malfeasance by the issuance and enforcement of a *void* order. If review is not granted by this Court based on the surreal holding of absolute judicial and executive branch immunity for tort and criminal liability then it again will have approved a judicial paradigm where significant constitutional claims become rights without either a competent impartial state or federal forum to pursue a remedy for their breach.

Fourth, the extensive record of an unlawful conspiracy in violation of federal criminal law by the Virginia Malfeasors is in itself a deprivation of the right to due process so to call for an exercise of this Court's supervisory power. Neither a Federal nor State courts can aid and abet any case which clearly violates the Constitution or civil/criminal laws of the United States. *U.S. v. Murphy* 768 F.2d 1518 (7th Cir. 1985)(31 judges were removed from the bench after a Federal Court ordered an investigation, confirming aiding and abetting from the inferior to the Federal Courts of a criminal enterprise). Stated another way, pursuant to 18 U.S.C. §§ 241, 242, and 1315, the Supreme Court of Virginia, its agent the VSBDB, and the Virginia Employment Commission *et al.* are prohibited from conspiring to punish Rodriguez for repairing to federal courts to enforce his Federal statutory rights as a

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Lerner, Max, *The Mind and Faith of Justice Holmes* 29 (1954).

parent and attorney:

> **That right was granted by Congress and cannot be taken away by the State.** The [State] courts were without power to take away this federal right by contempt proceedings or otherwise. (Emphasis added). *Donovan v. City of Dallas,* 377 U.S. 408, 413 (1964).

Thus, against the above federal Constitution's mandated due process guarantees this Court must stop the unauthorized attorney disciplinary system employed by Supreme Court of Virginia which has permitted the issuance and enforcement of the *void* order of the VSBDB that have violated Rodriguez's "fundamental right" to practice law, his right to be employed as an attorney, and his right to receive federal unemployment compensation benefits for has past work as an attorney, because he has petition Congress and litigated to enforce his federal statutory rights. Otherwise the Court continues to permit the egregious trespassing upon those rights.

In closing, the use of the *void* order of the VSBDB by the Federal and Virginia Malfeasors as the linchpin to punish Rodriguez for being an independent federal civil rights litigation attorney brings into focus the abuse of power by the Judicial Branch in collusion with the Executive Branch, and the prophetic dissent of Associate Justice Douglas in *Lathrop v. Donahue*: 367 U.S. 820 at 883-885 (1961).

> By complicating the law, lawyers have achieved the ultimate job security. Gone are the days

> when American courts functioned to serve justice simply and swiftly. . . . Surely it's time to question what has happened to our justice system and to wonder if it is possible to return to a system that truly does protect us from wrongs.

The Fraternity: Lawyers and Judges in Collusion, by John Fitzgerald Molloy. St. Paul, Minn.: Paragon House, *see* "How to Save the Courts" by Justice Sandra Day O'Conner, Parade Magazine, February 24, 2008. Thus, this Court must grant Certiorari.

I. THERE IS NO ABSOLUTE JUDICIAL AND EXECUTIVE BRANCH IMMUNITY FOR ISSUING AND ENFORCING THE VSBDB *VOID* ORDER IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENT AND WITHOUT JUDICIAL AUTHORITY IN FURTHERANCE OF A CRIMINAL BUSINESS CONSPIRACY.

a. *There is no absolute judicial immunity for denial of access to an impartial court.*

"The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases." *Marshal v. Jern Co,* 446 U.S. 238,242 (1980).[7] However, the evidence confirms that during

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[7] In *Palko v. Connecticut,* 302 U.S. 319, 325, 326 (1937), this Court said that due process rights includes those fundamental liberties that are "implicit in the concept of ordered liberty," such that "neither liberty nor justice would exist if [they] were sacrificed."

the past two years the Federal Judicial Branch and Virginia Courts have refused to comply with Constitutional mandates, statutory enactment, and *stare decisis* "stonewall" and avoid declaring the Supreme Court of Virginia acted outside of its jurisdiction and judicial capacity by delegating judicial authority to the VSBDB in violation of separation of power by usurping of legislative power granted only to the General Assembly.[8]

The evidence of the past 2 years confirms violation of the right to "access impartial court" recognized by this Court as a fundamental right guaranteed by the Fifth Amendment and the Fourteenth Amendment Equal Protection Clause and Due Process Clause of the U.S. Constitution, *Murray v. Giarratano,*492 U.S. 1, 11, 106 L. Ed. 2d 1, 109 S. Ct. 2765, n. 6 (1989) (plurality opinion); *Walters v. National Assn. of Radiation Survivors,* 473 U.S. 305, 335,87 L. Ed. 2d 220, 105 S. Ct. 3180 (1985); *Pennsylvania v. Finley, 481* U.S. 551, 557, 95 L. Ed. 2d 539, 107 S. Ct. 1990 (1987), *Wolff v. McDonnell,* 418 U.S. 539, 576,41 L. Ed. 2d 935,94 S. Ct. 2963 (1974);

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[8]This current pattern and practice of the judicial branch disregarding the mandate of separation of power was commented on in a book review of The Fraternity, *Id.*, by Mr. Dennis DeConcini, U.S. Senator (Ret), when he stated that, "...it is very clear...that the Courts in our judicial system have, in fact, become the lawmakers, when it is very clear...that our Constitution delegated that responsibility to the Congress of the United States and the State Legislatures....the legal profession has truly changed from being one of the premier professions in our society to a business where the number one objective or bottom line is financial profit..."

Boddie v. Connecticut, 401 U.S. 371, 380-381 (1971).

Thus, not only is the impermissible specter of an "appearance of bias" raised, but actual bias, causing the lack of impartiality to be reasonably questioned by the violation of the Latin maxims of *nemo judex in parte sua* ("no one can judge himself"), and *nemo est supre leges* ("no one is above the law"). This bias based on judicial cronyism has denied Rodriguez of access to an impartial court and right to due process.

First, this Court has recognized that "[E]ven if there is no showing of actual bias in the tribunal, this Court has held that due process is denied by circumstances that create the likelihood or the appearance of bias. This rule, too, was well established long before the right to jury trial was made applicable in state trials, and does not depend on it. . . .". *Peters v. Kiff*, 407 U.S. 493, 502 (1972).

Second, since the time of this Court's early explanations of due process, it understood the core of the concept to be protection against arbitrary action:

> "The principal and true meaning of the phrase has never been more tersely or accurately stated than by Mr. Justice Johnson, in *Bank of Columbia v. Okely*, 4 Wheat. 235-244 [(1819)]: 'As to the words from Magna Charta, . . ., after volumes spoken and written with a view to their exposition, the good sense of mankind has at last settled down to this: that they were intended to secure the individual from the arbitrary exercise of the powers of government, unrest-

rained by the established principles of private right and distributive justice.'" *Hurtado v. California*, 110 U.S. 516, 527 (1884). (Emphasis added).

The Court has repeatedly emphasized that "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), whether the fault lies in a denial as here of fundamental procedural fairness, see, *e.g., Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"), or in the exercise of power without any reasonable justification in the service of a legitimate governmental objective, "Historically, th[e] guarantee of due process has been applied to *deliberate* decisions of government officials to deprive a person of life, liberty, or property." *Daniels v. Williams*, 474 U.S. 327, 331 (1986) (citations omitted)(the substantive due process guarantee protects against government power arbitrarily and oppressively exercised).

As such, both the Fifth and Fourteenth Amendment acts as a limitation upon the exercise of judicial power-to wit, the Supreme Court of Virginia's declaring absolute judicial and executive branch immunity for acts outside of their jurisdiction and judicial capacity.

b. The Supreme Court of Virginia has acted outside of its judicial authority and jurisdiction, and must be held accountable for malfeasance for usurping the legislative authority granted only to the General Assembly to create Courts-of-Record and to appoint

judges.

This Court has held that an *invalid* and *void* order can be attacked in any proceeding where they come into issue. *Pennoyer v. Neff*, 95 US 714 (1877); and, *Jordon v. Gilligan*, 500 F.2d 701, 710 (6th Cir. 1974)("a void judgment is no judgment at all and is without legal effect") (Emphases added).

In enunciating the right to challenge a *void* judgment this Court in *Pennoyer* held that a *void* judgment can be treated as contrary to the first principles of justice, and as an absolute nullity, because it was rendered without any jurisdiction and is not entitled to any respect, stating that,

> To give such proceedings any validity, there must be a tribunal competent by its constitution--that is, by the law of its creation--to pass upon the subject-matter of the suit. (Emphasis added). *Id.* at 733.

Consistent with this the Court recently held in *Nguyen v. United States*, 539 U.S. 69 (2003), that any decision of an improperly constituted judicial body must be vacated.

Similarly, the Supreme Court of Virginia explained in *Morrison v. Bestler*, 239 Va. 166, 167-170, 387 S.E.2d 753 (1990),

> The term jurisdiction embraces . . . subject matter jurisdiction, which is the authority granted by the constitution or statute to

adjudicate a class of cases or controversies. . . .which cannot be waived or conferred on the court by agreement of the parties. *Lucas v. Biller,* 204 Va. 309, 313, 130 S.E.2d 582, 585 (1963). A defect in subject matter jurisdiction cannot be cured by reissuance of process, passage of time, or pleading amendment. While a court always has jurisdiction to determine whether it has subject matter jurisdiction, a judgment on the merits made without subject matter jurisdiction is null and void. *Barnes v. American Fert. Co.,* 144 Va. 692, 705, 130 S.E. 902, 906 (1925). Likewise, any subsequent proceeding based on such a defective judgment is *void* or a nullity. *Ferry Co. v. Commonwealth,* 196 Va. 428, 432, 83 S.E.2d 782, 784 (1954). (Emphasis added)..

Based on the above, this Court must find that the Supreme Court of Virginia's declaration of absolute judicial immunity is actionable based on the *Void* Order Doctrine.

First, because Article VI § 1 and § 7 of the Constitution of Virginia (Add-a and b), only gave the General Assembly has the authority to establish courts of records with judicial authority, the Virginia Malfeasors are liable under the Virginia Tort Claim Act for permitting the VSBDB to act outside of limited administrative authority by illegally revoking Rodriguez's license based on Part 6, § IV, ¶ 13 (B)(5) of the Rules of the Supreme Court of Virginia.

Second, the Virginia Malfeasors' are liable to acts outside of their jurisdiction and judicial/ministerial capacity because Article VI, §5 of the Constitution of

Virginia (Add-b), prohibits the Supreme Court from promulgating rules in in conflict with the general law established by the General Assembly.

Regarding the power to revoke an attorney's license, the General Assembly enacted Code § 54.1-3935 (Add-e), to give this power only to courts-of-record.[9] In addition, under Code § 54.1-3910 (Add-e), the General Assembly specifically restricted the VSBDB to be an administrative arm of the Supreme Court of Virginia. Finally, under Code § 54.1-3915 (Add-e) the General Assembly prohibited the Supreme Court of Virginia from promulgating rules or regulations inconstant with an attorney's statutory rights.

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[9] As explained by the Supreme Court of Appeals of Virginia in the controlling case of *Legal Club of Lynchburg v. A.H. Light*, 137 Va. 249, 119 S.E. 55 (1923),

> Independent of statutory authority, all courts of record in Virginia have inherent power in a proper case to suspend or annul the license of an attorney practicing in the particular court which pronounces the sentence of disbarment. **The power to go further and make suspension or revocation of license effective in all other court of the Commonwealth must be conferred by statute.** *Fisher's Case, 6 Leigh* (33 Va.) 619. (Emphases added).

Thus, the power of the courts to revoke an attorney's license outside of that particular court is controlled by the General Assembly by it passing a statute, *see* When Has the Supreme Court of Appeals Original Jurisdiction of Disbarment Proceedings? R.H.C. Virginia Law Review, Vol. 10, No. 3 (Jan. 1924), pp. 246-248.

Thus, based on the *void* order Doctrine the Supreme Court of Virginia has no authority to either delegate judicial authority to the VSBDB or create a disciplinary system outside of that established by the General Assembly under Va. Code § 54.1-3935, and cannot be permitted to declare itself absolutely immune from liability of tortious and criminal acts outside of is jurisdiction and judicial capacity.

c. The Virginia Malfeasors are liable for violating the prohibition against taking action against Rodriguez for litigating to enforce his Federal and Virginia statutory rights.

First, because Rodriguez has been a target of a criminal enterprise in retaliation for litigating to enforce his Federal statutory rights as a parent the Virginia Malfeasors are liable under 18 U.S.C. §§ 241,[10] 242,[11] and 1513.[12]

Second, under Va. Code §§ 18.2-481 and 482

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[10]18 U.S.C. § 241, makes it a crime to "conspire to injure . . . any person in any State . . . in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; . . ."

[11]18 U.S.C. § 242, makes is a crime to use any regulation to deprive, "any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ..."

[12]18 U.S.C. § 1513, makes it a crime to retaliate against a person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, . . . "

(Add-c and d), the Virginia Malfeasors are criminal liable for "[r]esisting the execution of the laws under color of authority." Here as explained, Article VI §§ 1, 5, and 7 of the Constitution of Virginia and Va. Code §§ 54.1-3910, 3915, and 3935 have been intentionally violated by the Supreme Court of Virginia by promulgating court rules which created an illegal attorney disciplinary system and enforcing the VSBDB *void* order which conflict with Rodriguez's statutory rights

Thus, the surreal holding of absolute judicial and ministerial immunity from accountability for malfeasance must be rejected by the Court.

II. THERE IS NO ABSOLUTE JUDICIAL AND EXECUTIVE BRANCH IMMUNITY UNDER THE VIRGINIA TORT CLAIMS AND BUSINESS CONSPIRACY ACTS.

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost. *Rankin v. Howard*, (1980) 633 F.2d 844, cert den. *Zeller v. Rankin*, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326.[13]

As discussed the Virginia Supreme Court has

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[13] But, there is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign. *Cooper v. O'Conner*, 99 F.2d 133 (1981).

promulgated rules to delegate to the VSBDB "judicial authority." This was an act completely in the absence of all jurisdiction and cannot be a judicial act. It was no more than the act of private citizens, pretending to have legislative power which does not exist at all. In such a circumstance to grant absolute judicial immunity is contrary to the public policy expectation that there shall be a Rule of Law.[14]

As explained in *Marbury v. Madison,* 1 Cranch 137 (1803).[15]

> "... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is *void*, and that courts, as well

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[14]A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. *Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938).

[15]In *The History of Sovereign Immunity*, Associate Justice Antonin Scalia, reveals that the "fountainhead of American constitutional law was precisely a suit against a federal official." Justice Scalia then goes on to explain the anomaly in the ruling of Chief Justice Marshall in *Marbury v. Madison* when he advises, "The explanation of this anomaly is quite simple: at the time of *Marbury v. Madison* there was no doctrine of domestic sovereign immunity, as there never had been in English law. As Marshall notes in passing in the portion of his opinion establishing the proposition that there is no right without a remedy: "In Great Britain, the king himself is sued in the respectful form of a petition, and he never fails to comply with the judgment of the court."

as other departments, are bound by that instrument."

This Court has held that "[n]o judicial process, whatever form it may assume; can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence." *Ableman v. Booth*, 21 Howard 506 (1859).

Consistent with this Va. Code § 8.01-195.3(3), only provides for immunity for judges or officers for acts within their judicial or ministerial capacity. Thus, based on the issuance and enforcement of the VSBDB *void* orders and the Virginia Malfeasors conspiracy to enforce it so to deprive Rodriguez of employment, he has a cause of action under the Virginia Tort Claims Act, Va. Code § 8.01-195.3(3), (4) and (5) (Add-c).[16]

III. THE DETERMINATION OF MALFEASANCE IS AN ISSUE FOR A JURY TRIAL UNDER BOTH THE VIRGINIA TORT CLAIM ACT AND BUSINESS CONSPIRACY ACTS

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[16] The 11th Amendment immunity does not prevent an action in federal court against a state official for *ultra vires* actions beyond the scope of his statutory authority, or pursuant to authority deemed to be unconstitutional., i.e. the Supreme Court of Virginia usurping the authority of the General Assembly to crate an unauthorized attorney disciplinary system, *Pennhurst State Sch. V. Halderman*, 465 U. S. 89 (1984)supra, 465 U.S. at 101-102, n. 11; *Schaun v. District Courts*, 967 F. Supp 230, 232-233 (S.D.Tex. 1997).

In 1789, Thomas Jefferson wrote in a letter to Thomas Paine: "I consider trial by jury as the only anchor ever yet imagined by men, by which the government can be held to the principles of its constitution."

Jefferson saw trial by jury as the greatest power that the people have, and the only way the people had to personally and directly prevent government employees from flagrantly ignoring constitutional restraints and oppressing the people with excessive and often ridiculous laws and regulations i.e. like the Supreme Court of Virginia usurping the authority and mandate of the General Assembly by creating through its Rules an illegal attorney disciplinary system.

It is for this reason that Virginia Constitution in Article I, § 11 guarantees the right to a trial by jury. Furthermore, both the Virginia Tort Claim Act and the Virginia Business Conspiracy Act mandate trial by jury.

Furthermore, the Seventh Amendment to the U.S. Constitution, guarantees the right of jury trial in civil matters

However, declaring absolute judicial and ministerial immunity the Supreme Court of Virginia deprived Rodriguez of his right due process and equal protection of the laws.

IV. THERE IS NO IMMUNITY FROM SUIT FOR A CRIMINAL CONSPIRACY TO ISSUE AND ENFORCE *VOID* ORDERS.

In *The Case of the Marshalsea*, 77 Eng. Rep. 1027 (K.B. 1613), Sir Edward Coke found that Article 39 of the Magna Carta restricted the power of judges to act outside of their jurisdiction such proceedings would be *void*, and actionable,

> [W]hen a Court has (a) jurisdiction of the cause, and proceeds *inverso ordine* or erroneously, there the party who sues, or the officer or minister of the Court who executes the precept or process of the Court, no action lies against them. But (b) when the Court has not jurisdiction of the cause, there the whole proceeding is [before a person who is not a judge], and actions will lie against them without any regard of the precept or process . . . *Id.* 77 Eng. Rep. at 1038-41.

Thus, historically there is no absolute judicial and ministerial immunity for acts outside of jurisdiction, and an action will lie for the conspiracy to issue and enforce a *void* order as part of an illegal enterprise. In England and the colonies, it was in ordinary courts which determined whether government officers, including judges, with good behavior tenure were to be held accountable in either civil or criminal trials for misbehavior. Prakash and Smith, *How to Remove a Federal Judge*, 116 Yale L. J. 72 at 74 (2006).

Blackstone discussed various English statutes that provided for the making accountable and removal of judges for misbehavior in proceeding. 4 William Blackstone, Commentaries 140 at 141. These were not statutory exception to grants of good-behavior tenure,

but consistent with the concept that a judge could be tried in court. *See, e.g. R. V. Gaskin,* (1799) 1001 Eng. Rep. 1349 (K.B.) (reinstating a parish-clerk upon his demand that his employer show cause for firing him); *James Bagg's Case* (1616) 77 Eng. Rep. 1271, 1278-81 (K.B.)(reinstating a burgess for lack of cause to remove him).

Virginia enacted the English rule in Va. Code §8.01-195.3(3) at Add-g, to hold that a judge or government attorney had no immunity from suit for acts outside of his judicial capacity or jurisdiction. *See* Robert Craig Waters,"Liability of Judicial Officers under Section 1983" 79 *Yale L. J.*(December 1969), pp. 326-27 and nn. 29-30). In *Stump v. Sparkman*, 435 U.S. 349 at 360 (1978), the Supreme Court confirmed that a State judge would be immune from suit only if he did not act outside of his judicial capacity and/or was not performing any act expressly prohibited by statute. *See* Block, *Stump v Sparkman* and the History of Judicial Immunity, 4980 Duke L.J. 879 (1980).

a. Violation of Oath of Office is Treason.

History reports that Napoleon at his coronation took the imperial crown out of the hands of the Pope and crowned himself King. However, Justices of the Supreme Court of Virginia and the or government attorneys do not have that prerogative.

This is because before a Virginia attorney's name is entered upon the roll he/she must take an oath to "support the constitution of the United States and the constitution of the state of _____, and that I will

faithfully discharge the duties of the office of attorney and counselor at law to the best of my ability."

Also all judges must take a second oath of office before entering upon the duties of their office to "solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the State of _____, and that I will faithfully discharge the duties of judge of _____ court, according to the best of my ability."

Further, if the judge or attorney had enlisted in the U.S. military, as then he/she has subscribed to a lifetime oath, under Title 10 U.S.C. Section 502, to in pertinent part, as follows:

> "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic; that I will bear true faith and allegiance to the same; ...".

The Supreme Court of the United States has stated that: "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.". *Cooper v. Aaron*, 358 U.S. 1, 78 S.Ct. 1401 (1958).

The language of Chief Justice Marshall in *Cohens v. Virginia*, 6 Wheat, 264, 404 (1816), is most apposite, when he stated that the courts:

> . . . have no more right to decline the exercise of jurisdiction which is given, than to usurp that

which is not given. The one or the other would be treason to the Constitution.[1] (Emphasis added)

Thus, based on taking at least two, if not three, oaths of office to support the Constitution of the United States, any judge or attorney who does not comply with his oath to the Constitution of the United States wars against it and engages an act or acts of treason,

Here the evidence confirms that the Virginia Malfeasors violated their oath under the Constitution in furtherance of a criminal enterprise. Here we have the enforcing the *void* order to punish Rodriguez for acting pursuant to his federal rights under Treaty which under the Supremacy Clause is part of the Constitution (Add-a).

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid Constitutional provisions or valid statutes expressly depriving him of

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[1]Va. Code§ 18.2-481(5)(Add-f), makes it a crime for a court to do an act of treason, which is defined as, "**[r]esisting the execution of the laws under color of its authority.**" (Emphasis added). No provision of the Constitution of Virginia grant absolute immunity to the Judicial Branch. Instead VA. Code § 8.01-195.3(3) specifically provides for a cause of action against a judge for acts outside of jurisdiction or judicial capacity. Also, Article IV, § 9 of the Constitution of Virginia provides only for limited absolute immunity to the General Assembly, "except [for] treason, felony, or breach of the peace." Finally, pursuant to Article IV § 14(18) of the Constitution of Virginia the General Assembly is prohibited from enacting any special law granting any individual immunity from suit.

jurisdiction or judicial capacity, judicial immunity is lost. *Rankin v. Howard* 633 F.2d 844 (1980), *Den Zeller v. Rankin*, 101 S.Ct. 2020 (1981). Whenever a judge acts where he does not have jurisdiction to act, the judge is engaged in an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101 S.Ct. 471, 66 L.Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821). This includes if a judge does not fully comply with the Constitution and statute, then his orders are *void*, *In re Sawyer*, 124 U.S. 200 (1888), he is without jurisdiction, and he has engaged in an act or acts of treason.

b. The Virginia Malfeasors Have No Immunity For Treason.

The benchmark for accountability of employees of the government can be found in *United States v. Lee*, 106 U.S. 196, 220 (1882), wherein the U.S. Supreme Court stated that,

> [n]o man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives. (Emphasis added).

More recently this Court held in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974) that,

> when a state officer acts under a state law in a manner violative of the Federal Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States. [Emphasis supplied in original].

In total disregard of this holding, Judges of the Supreme Court of Virginia have given themselves and the other Virginia Malfeasors absolute judicial and *quasi*- judicial and ministerial immunity for acts of treason.

However, it is clear that neither Judges nor government attorneys have any judicial/ministerial immunity for treason, criminal acts, aiding, assisting, or conniving with others who perform a criminal act, or for violating their administrative/ministerial authority and oath of office to serve the people.

c. No Immunity For A Criminal Enterprise

In the instant action the evidence confirms a criminal conspiracy in violation of 18 U.S.C. §§ 241, 242, and § 1513 (Add-c and d), by the issuance and enforcement of VSBDB *void* orders to injure, punish

and stigmatize Rodriguez and a conspiracy to obstruct justice.

Thus, both absolute and qualified immunity are lost with the evidence of criminal violations. *Turner v. Houseman, 2008 WL 647526,* 2008 U.S. App. LEXIS 5127, slip op. At 3 (10th Cir. (Okla.) March 10, 2008)(No.07-6108, unpublished).

> Crime is contagious. If Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." *Olmstad v. United States,* 277 U.S. 438 (1928).

CONCLUSION

The evidence of the use the VSBDB as a linchpin in a criminal enterprise to silence Rodriguez in retaliation for his petitioning Congress and litigating to enforce his Federal statutory rights is a violation of Federal criminal law, and there can be no absolute immunity. Also as the practice of law is unquestionably a "fundamental right," the Supreme Court of Virginia has acted outside of its jurisdiction and judicial authority does call for the exercise of this Court's supervisory power.

Therefore, the Court must take the opportunity to revisit the use of its "discretionary appellate jurisdiction" under the Judiciary Act of 1925 (43 Stat.

936),[2] which for more than seven years has invited the Virginia Malfeasors to violate both the laws of the United States in total disregard of the Supremacy Clause (Add-a), and the laws of Virginia.

This is because the Judicial Branch of government is charged with the duties of maintaining justice. The court system is supposed to be independent of the other two branches of government so to assure that within the limitations of the Constitution the government work for the people. That is how the Constitution defines the role of the justice system. Thus the Constitution defines things the courts can not do as well as things it must do. As Chief Justice Marshall in *Cohens v. Virginia*, 6 Wheat, 264, 404 (1816), stated,

> It is most true that this court will not take jurisdiction if it should not; **but it is equally true that it must take jurisdiction if it should.** The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. **We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution.** Questions may

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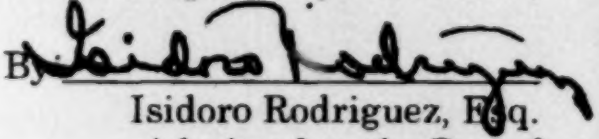
[2]This policy was designed to "[let] issues 'percolate' in the 50 States in the interests of federalism over [its] responsibility to resolve emerging constitutional issues." *Johnson v. Texas*, 509 U.S. 350, 379 (1993)(Justice O'Connor, dissenting)

occur which we would gladly avoid, but we cannot avoid them. All we can do is to exercise our best judgement, and conscientiously perform our duty.

For the foregoing reasons this Court must grant Certiorari. The evidence is indisputable, the holding of absolute judicial and executive branch immunity from accountability for malfeasance is a real and present danger to our Republic. This because, "[f]ind out just what the people will submit to and you have found out the exact amount of injustice and wrong which will be imposed upon them; and these will continue until they are resisted with either words or blows, or with both. **The limits of tyrants are prescribed by the endurance of those whom they oppress.** (Emphasis added) Frederick Douglass, civil rights activist, Aug. 4, 1857.

Respectfully submitted,

By: 

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ADDENDUM

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

The Supremacy Clause of the United States Constitution, article VI, clause 2, provides: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, . . ., shall be the supreme Law of the Land; and the Judges in every States shall be bound thereby. . . .

Section 1 of the Fourteenth Amendment provides that, "No State shall make or enforce any law which shall . . . deprive any person of . . property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

VIRGINIA CONSTITUTION

Article I, § 11. Due Process of Law; Obligation of Contracts; . . . ; Jury Trial in Civil Cases, provides,[t]hat no person shall be deprived of his . . . property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts, . . .That in controversies respecting property, . . trial by jury is preferable to any other . . . .

Article VI, § 1. Judicial power; jurisdiction. — The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish.

Article VI, § 5. Rules of practice and procedure. — The Supreme Court shall have the authority to make rules governing the course of appeals and the practice and procedures to be used in the courts of the Commonwealth, but such rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly.

Article VI, § 7. Selection . . . of judges

The justice of the Supreme Court of shall be chosen by vote of the . . . General Assembly. . . . The judge of all other courts of record shall be chosen by the . . . General Assembly . . . .

THE VIRGINIA CODE INVOLVED

Va. Code § 8.01-195.3. Commonwealth, transportation district or locality liable for damages in certain cases. — Subject to the provisions of this article, the Commonwealth shall be liable for claims for money only accruing on or after July 1, 1982, and any transportation district shall be liable for claims for money only accruing on or after July 1, 1986, on account of damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee while acting within the scope of his employment under circumstances where the Commonwealth or transportation district, if a private person, would be liable to the claimant for such damage, loss, injury or death. However, except to the extent that a transportation district contracts to do so pursuant to § 15.2-4518, neither the Commonwealth nor any transportation district shall be liable for interest prior to judgment or for punitive damages. The

amount recoverable by any claimant shall not exceed (i) $25,000 for causes of action accruing prior to July 1, 1988, $75,000 for causes of action accruing on or after July 1, 1988, or $100,000 for causes of action accruing on or after July 1, 1993, or (ii) the maximum limits of any liability policy maintained to insure against such negligence or other tort, if such policy is in force at the time of the act or omission complained of, whichever is greater, exclusive of interest and costs.

Notwithstanding any provision hereof, the individual immunity of judges, the Attorney General, attorneys for the Commonwealth, and other public officers, their agents and employees from tort claims for damages is hereby preserved to the extent and degree that such persons presently are immunized. Any recovery based on the following claims are hereby excluded from the provisions of this article:

3. Any claim based upon an act or omission of any court of the Commonwealth, or any member thereof acting in his official capacity, or to the judicial functions of any agency subject to the provisions of this article.

4. Any claim based upon an act or omission of an officer, agent or employee of any agency of government in the execution of a lawful order of any court.

6. Any claim arising out of the institution or prosecution of any judicial or administrative proceeding, even if without probable cause. . . .

Va. Code § 18.2-481. Treason defined; how proved and punished. — Treason shall consist only in:

(5) Resisting the execution of the laws under color of its authority.

Such treason, if proved by the testimony of two witnesses to the same overt act, or by confession in court, shall be punishable as a Class 2 felony (Code 1950, § 18.1-418; 1960, c. 358; 1975, cc. 14, 15.)

Va. Code18.2-482. Misprision of treason.

If any person knowing of such treason shall not, as soon as may be, give information thereof to the Governor, or some conservator of the peace, he shall be guilty of a Class 6 felony.

Va Code § 18.2-499. Combination to injure others in their reputation, trade, business or profession: right of employees

(a) Any two or more persons who shall combine, associate, agree, mutually undertake or concert together for the purpose of wilfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever, or for the purpose of wilfully and maliciously compelling another to do or perform any act against his will, or preventing or hindering another form doing or performing any lawful act, shall be jointly and severally guilty of a Class 3 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

(b) Any person who attempts to procure the participation, cooperation, agreement or other assistance of any one or more persons to enter into any combination, association, agreement, mutual understanding or concert prohibited in subsection (a) of this section shall be guilty of a violation of this section and subject to the same penalties set out in subsection (a) hereof.

Va Code § 18.2-500. Same; civil relief; damages and counsel fees; injunctions. — (a) Any person who shall be injured in his reputation, trade, business or profession by reason of a violation of § 18.2-499, may sue therefor and recover three-fold the damages by him sustained, and the costs of suit, including a reasonable fee to plaintiff's counsel; and without limiting the generality of the term, "damages" shall include loss of profits. Such counsel shall in no case receive any other, further or additional compensation except that allowed by the court and any contract to the contrary shall be null and void.

Va. Code § 54.1-3910. Organization and government of Virginia State Bar. — The Supreme Court may promulgate rules and regulations organizing and governing the Virginia State Bar. The Virginia State Bar shall act as an administrative agency of the Court for the purpose of investigating and reporting violations of rules and regulations adopted by the Court under this article. . ...

Va. Code § 54.1-3915. Restrictions as to rules and regulations.---Not withstanding the foregoing provisions of this article, the Supreme Court shall not promulgate rules or regulations prescribing a code of ethics governing the professional conduct of attorneys which are inconsistent with any statute; . . . .

Va. Code § 54.1-3935. Procedure for revocation of license. A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has . . .

violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.

B. If the rule is issued by the Supreme Court . . . the rule shall be returnable to the Circuit Court of the City of Richmond. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. . . . In proceedings under this section, the court shall adopt the Rules and Procedures described in Part Six, Section IV, Paragraph 13 of the Rules of Court.

C. Bar Counsel of the Virginia State Bar shall prosecute the case. . . .

D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked . . . . .

APPENDIX
TABLE OF CONTENT

1. July 31, 2008, *Void* Order of the Supreme Court of Virginia affirming *void* order of the Fairfax County Circuit Court holding absolute Judicial and Executive Branch immunity for tort and criminal acts outside of capacity and jurisdiction, and denial of jury trial, *Isidoro Rodriguez, Esq. v. Hon. Hassell et al,* No. 081146 ..... A-1

2. March 28, 2008, *Void* order of the Circuit Court of Fairfax County A-2

3. June 29, 2007, *Void* Order of the Supreme Court of Virginia affirming *void* order of the Virginia State Bar revoking Rodriguez's license to practice law for taking "actions" to enforce his rights under Treaty and Va. Code as a father and Virginia attorney, *Isidoro Rodriguez, Esq. v. Virginia State Bar,* No. 070283 A-3

4. November 28, 2006, *Void* order of the VSBDB A-4

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday *the* 31st *day of* July, 2008.

Isidoro Rodriguez,

Appellant,

v. Record No. 081146
Circuit Court No. CL-2007-15396

Lefoy Rountree Hassell, *et al.*,

Appellees.

From the Circuit Court of Fairfax County

Finding no error in the judgment complained of, the petition for appeal is refused. The Court dispenses with oral argument in this case. The appellees' motion to dismiss alleging noncompliance with Rule 5:11 is denied as moot.

Chief Justice Hassell and Justices Keenan, Koontz, Kinser, Lemons and former Justice Agee took no part in the consideration of this case.

A Copy,

Teste:

Patricia Harrington, Clerk

Virginia:

In the Circuit Court of Fairfax County

Isidoro Rodriguez,

Plaintiff,

v. Record No. 081146
Circuit Court No. CL-2007-15396

Hon. Leroy Rountree Hassell, Sr., *et al.*,

Defendants.

Order

This cause came to be heard on the 28th day of March, 2008, on Defendants (with the exception of Hassell, Sr., and Justice Barbara M. Keenan of the Supreme Court of Virginia) Demurrer, Plea of Judicial Immunity and Pea of *res Judicata*.

Upon the matters presented to the Court in writing and at the hearing, it is

ADJUDRED, ORDERED, and DECREED as follows:

Defendants' Demurrer is SUSTAINED and Pleas of Judicial Immunity is GRANTED. Court declined to rule on plea of *res judicata* due to other dispositive motions.

/d/ DT Still
Judge

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 29th *day of* June, 2007.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 070283
VSB Docket Nos. 04-052-0794
And 04-052-1044

Virginia State Bar,

Appellee.

Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.

Upon consideration of the record, briefs, and arguments by appellant, in proper person, and by counsel for the appellee, the Court is of the opinion that there is no error in the order of the Virginia State Bar Disciplinary Board (the "Board") revoking Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia based upon finding that he violated Rules 1.2, 1.5, 1.7, 1.16, 3.1, 3.4, 3.7, 4.4, 7.1 and 8.4 of the Virginia Rules of Professional Conduct.

In reviewing the Board's decision in a disciplinary proceeding, we conduct an independent examination of the entire record. We consider the evidence and all reasonable inferences that may be drawn form the evidence in the light most favorable to the Bar the prevailing party in the Board proceeding. We give the Board's factual finding substantial weight and view them as prima facie correct. While we do not

give the Board's conclusions the weight of a jury verdict, we will sustain those conclusions unless it appears they are not justified by reasonable view of the evidence or are contrary to law. Barrett v. Virginia State Bar, 269 Va. 583, 587-88, 611 S.E.2d 375, 377 (2005) (quoting Williams v. Virginia State Bar, 261 Va. 258, 264, 542 S.E.2d 385, 389 (2001) (citations omitted); see also El-Amin v. Virginia State Bar, 257 Va. 608 612, 514 S.e.2d 163, 165 (1999); Myers v. Virginia State Bar, 226 Va. 630, 632, 312 S.E.2d 286, 287 (1984).

In making its determination, the Board considered allegations that Rodriguez violated the Rules of Professional Conduct during litigation involving two sets of cases. One group of cases involving Rodriguez's relationship and work with Sea Search Armada. The other group involved custody litigation regarding his son. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.2(a), 1.5(a), 1.16(a)(3), 3.4(I), 7.1(a), and 8.4(b) and (c) in his relationship with and representation of Sea Search Armada, including his attempts to recover unpaid attorney's fees. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules1.7(b), 3.1, 3.4(d)(h)(i)(j), 3.7(a), 4.4, and 8.4.

We independently review each of the alleged Rule violations and find no error in the Board's order. Accordingly, the order appealed from is affirmed.

Appellant shall pay to the appellee thirty dollars damages.

This order shall be certified to the Virginia State Bar Disciplinary Board.

A Copy,

Teste: /S/

Patricia L. Hanninton, Clerk

VIRGINIA:
BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ
VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination (Corrected Certification) by the Fifth District Committee Section II.

At the beginning of the proceedings the

Respondent renewed his motion for the members of the panel to disqualify themselves as being interested patties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSBNo. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez, hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex. 1. The Respondent received paper notice of this proceeding as required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2.

2. The Complainant, Jack Harbeston,

hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims. Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the

parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January10, 1989 SSA authorized Respondent as its legal representative in Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's

claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without Harbeston's written authorization as Respondent had acknowledged by his December 14,1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his

representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24,2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would honor their contingent fee sharing arrangement By letter dated April 6,2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of $4.5 million against SSA. VSB Ex. 19, The Respondent testified that he based the amount of his attorney's fee claim on the annual salary ($300,000 to $400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for

jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of Certiorari by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit - this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also dismissed but the court denied the

defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he held until 2000. These assertions are not true. On his resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored byte Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004,while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a misrepresentation in his FOIA request.

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and his son visited him pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost

Stiehn "a big chunk of change." In keeping with this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia, various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the

litigation in Virginia. In filing this litigation in which Respondent and his son were named as plaintiffs, Respondent who is not licensed to practice in the District of Columbia and had not obtained an order to appear *pro hoc vice*, attempted to act as attorney for his son.

5. In March of 2003, the Respondent filed a Writ of Mandamus in an attempt to compel NCMEC to take actions to force the country of Colombia to grant the Respondent access to his son. VSB Ex. 64. By letter dated September 24,2003, Warren L. Dennis, Esquire, counsel for NCMEC, informed the Clerk of the United States Supreme Court that NCMEC would not be filing a responsive brief to the Respondent's Writ because, inter alia, it had no power to compel the government of the country of Colombia to do anything. VSB Ex. 65. Upon receipt of a copy of the letter, the Respondent called Mr. Dennis's office and left a voice mail message in which he threatened to file an ethics complaint because the letter falsely characterized the Respondent's Virginia litigation. Also, by letter dated September 29,2003, the Respondent gave notice of his intent to file a judicial complaint and District of Columbia Bar complaint against those involved in the litigation unless facts already proved were proved within twenty-four (24) hours. VSB Ex 67.

6. In the District of Columbia litigation the Respondent repeatedly filed pleadings with no basis in law or fact. VSB Ex. 43 - 81. In an amended complaint (VSB Ex. 72) Respondent asserted a claim under the Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1961. Included as defendants in the complaint were the United States Supreme Court; the United States Court of Appeals for the Fourth Circuit;

the United States Court of Appeals for the District of Columbia, the United States District Court for the Eastern District of Virginia, the United States District Court for the District of Columbia, the Virginia Supreme Court, the Court of Appeals of Virginia and the Circuit Court of Fairfax County. Respondent's actions in the D.C. litigation clearly demonstrates his use of the legal system to harass and intimidate anyone whom he considered to have been involved in the Virginia litigation that returned his son to Colombia and to re-litigate the Virginia case.

7. Respondent's actions in naming NCMEC and some of its employees as defendants in this litigation cost NCMEC over $160,000 in legal expenses and nearly bankrupted the organization. Throughout the course of this litigation, the Respondent misrepresented his credentials as a lawyer and his license status in the District of Columbia and New York to the courts and opposing parties. The Respondent graduated from law school in 1976. He was first licensed to practice law in the Commonwealth of Virginia in 1982. Virginia is the only jurisdiction in which Respondent has a license to practice law. The Respondent listed a number of governmental and quasi governmental legal jobs in the District of Columbia on his resume between the years 1976 and 1982 requiring a valid law license in the United States, during which period he was not licensed to practice law anywhere in the United States. The Respondent also noted on various documents that he practiced law in the District of Columbia for a period of time after his licensure in Virginia, but has never been licensed in the District of Columbia.

8. During this litigation, the Respondent filed pleadings and attempted to represent his minor son on

several occasions in the District of Columbia litigation, despite the fact there was a conflict of interest between the father and son, despite the fact that the Respondent would be a witness in the case and despite the fact that the judge instructed the Respondent to cease representing his son. VSB Ex 48 & 50. The Respondent's law partner also attempted to represent the son but the court refused to permit that representation.

I. MISCONDUCT

The Certification for VSB Docket No. 04-052-0794 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will

preclude other employment by the lawyer,

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph ©, a lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if:

(3) the lawyer is discharged.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(I) file a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 7.1 Communications And Advertising Concerning A Lawyer's Services

(a)A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement

violates this Rule if it:

(1) contains misleading fee information;

(2) states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits;

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

(4) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (I) of the fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

(5) contains a portrayal of a client by a non-client without a disclosure that the depiction is a dramatization.

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

© engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

The Certification for VSB Docket No. 04-052-1044 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the

representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:
(1) the lawyer reasonably believes the representation will not be adversely affected; and
(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RULE 3.1 Meritorious Claims And Contentions
A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could
result in incarceration may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3 Candor Toward The Tribunal
(a) A lawyer shall not knowingly
(1) make a false statement of fact or law to a tribunal;
(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6;
(3) fail to disclose to the tribunal controlling legal authority in the subject jurisdiction known to the lawyer to be adverse to the position of the client and not disclosed by opposing counsel; or
(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to

know of its falsity; the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

(h) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

(I) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another. Effective January 1,2004

(j) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter,

(k) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.7 Lawyer As Witness

(a) A lawyer shall not act as an advocate in an adversarial proceeding in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

RULE 44 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay; or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

RULE 5.5 Unauthorized Practice Of Law

(a) A lawyer shall not:

(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RULE 7.1. Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

(1) contains false or misleading fee information; or

(2) states or implies that the outcome of a particular legal matter was not OR will not be related to its facts or merits; or

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(4) is likely to create an unjustified expectation

about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations. Effective Nov. 1,2002

(a) A lawyer admitted to engage in patent practice before the United States Patent and

Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation; Effective Mar. 25, 2003

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. DISPOSITION

Upon review of the forgoing finding of facts, the exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1-92, the exhibits presented by the

Respondent as The Respondent's Exhibits 1-42, the evidence from witnesses presented on behalf of the VSB and evidence presented by the Respondent in the form of his own testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation the Board reconvened and stated that it had found by clear and convincing evidence that the Respondent had violated The following Rules of Professional Conduct: in Docket No. 04-052-0794, Rule 1.2(a); 1.5(a); 1.16(a)(3); 3.4(I); 7.1(a); 8.4(b) & ©; in Docket No. 04-052-1044. Rule 1.7(b) 1-2; 3.1; 3.4 (d)(h)(i)(j); 3.7(a)(1-3); 4.4 and 8(b) and ©).

The Board stated that the Bar had failed to prove by clear and convincing evidence any violation of the following the Rules of Professional Conduct: 3.3(a)1-4; 5.5(a)1-2; 7.1(a)1-4; 7.4(a)(b)(c)(d); and effective Nov. 1, 2002 7.4(a)(b)(c)(d).

The bases for the Boards finding of violation of the Rules of Professional Conduct are as follows:

VSB Docket No. 04-052-0794

(a) The Respondent violated Rule 1.2(a) (Scope of Representation) in that his authorization to act on behalf of his client SSA was limited, but he nonetheless acted without written authorization from his client. Furthermore, after he had been discharged by SSA, he wrote the Department of State claiming to be the managing attorney of SSA, which was not the case. He also made a FOIA request without any authorization.

(b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars. Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee.

Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a quantum merit basis. Respondent testified that he determined the amount based upon what the salary would be for a legal representative for a U.S. company operating in a foreign country.

© The Respondent violated Rule 1.16 (a)(3) (Declining or Terminating Representation) by representing that he was SSA's managing attorney in a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by tiling the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by misrepresentation on his website and resume. VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship

with SSA. He misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4© (Misconduct) by representing in his FOIA request that he was the managing attorney for SSA, when the evidence shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up being named as a defendant. NCMEC and several of its staff were named as defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken

Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

(c) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d); (2) by threatening the NCMEC attorney with a bar complaint and filing a criminal complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1-3 (Lawyer as Witness) by acting as an advocate when he

was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District of Columbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent. After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION.

The Board in reaching its decision of revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04-052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked, effective October 27, 2006.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client The Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of

October 27,2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13,B.&c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel 0. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/
James Leroy Banks., Jr. 1st Vice Chair